

RECEIVED  
CENTRAL FAX CENTER  
AUG 26 2004

PTO/SB/84 (11-03)

Approved for use through 07/31/2008. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

**Docket Number (Optional)**  
**35106**

First named inventor: **ZENTI Maximiliano**

Application No.: **09/913,317**

Art Unit: **3643**

Filed: **August 10, 2001**

Examiner: **PARSLEY, DAVID J**

Title: **SOD COMPRISING AGRICULTURAL COMPONENTS ...**

Attention: Office of Petitions  
Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
FAX: (703) 872-9306

NOTE: If information or assistance is needed in completing this form, please contact Petitions  
Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a  
notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the  
expiration date of the period set for reply in the Office notice or action plus an extensions of time  
actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee —required for all utility and plant applications  
filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**

☒ Small entity-fee \$ **650.00** (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity - fee \$ \_\_\_\_\_ (37 CFR 1.17(m))

**2. Reply and/or fee**

A. The reply and/or fee to the above-noted Office action in **dated Feb. 6, 2004**  
the form of **Amendment in response to the O.A.** (identify type of reply):

☐ has been filed previously on \_\_\_\_\_  
☒ is enclosed herewith.

B. The issue fee of \$ \_\_\_\_\_.

☐ has been paid previously on \_\_\_\_\_  
☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the  
USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete,  
including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments  
on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent  
and Trademark Office, U.S. Department of Commerce, P.O. 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS  
ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/64 (11-03)

Approved for use 07/31/2008. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**3. Terminal disclaimer with disclaimer fee**

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

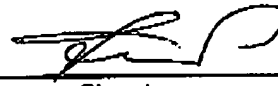
**4. STATEMENT:** The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (II)(C) and (D))].

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

August 26, 2004

Date

Telephone  
Number: 011 39 02 8590-7777



Signature

Guido MODIANO (Reg. No. 19,928)

Typed or printed name

Via Meravigli 16

Address

20123 MILAN Italy, Europe

Address

Enclosures: ☒ Fee Payment☒ Reply☐ Terminal Disclaimer Form☒ Additional sheets containing statements establishing unintentional delay☐ Other: \_\_\_\_\_**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]**

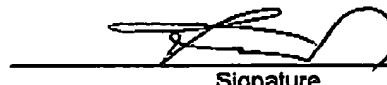
I hereby certify that this correspondence is being:

☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☒ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-8306. / (703) 308-6916

August 26, 2004

Date



Signature

Guido MODIANO (Reg. No. 19,928)

Type or printed name of person signing certificate

(Page 2 of 2)

**Agent's Docket N. 35106/MEL/rf**

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. (001)(703) 872-9306) on the date shown below.

**Milan,  
August 26, 2004**

**Guido MODLANO (Reg. No. 19,928)**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE      RECEIVED  
CENTRAL FAX CENTER

AUG 26 2004

In re application of: )  
Applicant: ZENTL, Maximiliano )  
Ser. No.: 09/913,317 ) Group Art Unit: 3643  
Filed: August 10, 2001 ) Examiner: PARSLEY, DAVID J  
For: SOD COMPRISING AGRICULTURAL COMPONENTS...)

**Attention: Office of Petitions**

## Mail Stop Petition

**Commissioner for Patents**

**P.O. Box 1450**

Alexandria, VA 22313-1450 USA

**STATEMENT ESTABLISHING UNINTENTIONAL DELAY IN PETITION OF APPLICATION**  
**ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Sir,

Applicant's representative first became aware of the abandonment of the present application on August 25, 2004. The delay in discovering the abandoned status of the application has occurred despite the exercise of due care and diligence on the part of applicant and his representative.

Applicant's representative duly received the pending Office notice dated February 6, 2004 and, as usual, introduced the expiry date for responding to the Office notice Action in his computerized system.

Application Number 09/913,317  
Art Unit: 3643  
August 26, 2004

However, an error occurred when the applicant's representative, as it normally happens, wrote by hand the expiry date on the front page of the Office notice (Annex 1).

As it can be seen, the expiry date was erroneously set as May 26, 2004. Please note that the date is written in the European format wherein the day of the month precedes the month and so it reads 26-05-2004.

Following this error, the person who types the expiry date, without extension of times, in the computerized system "correctly" entered May 26, 2004 (Annex 1A, with partial English translation) and from then on the computer kept warning the applicant's representative about the final expiry date, including extensions of time, which was erroneously August 26, 2004 (Annex 2, with partial English translation).

As it can be seen, the error of the applicant's representative was totally unintentional and so the corresponding delay.

In fact, only on August 25, when the response to the Office notice was ready to file, -by facsimile transmission-, a further check of the expiry date in order to calculate the correct extension of time fees revealed the error and only on that occasion the applicant's representative became aware that the real expiry date, including the extensions of time, was August 6, 2004 instead of August 26, 2004.

The applicant's representative is confident that the present petition to revive will be positively considered since the delay was totally unintentional and only due to an initial typing error of the issue date of the Office notice. The applicant never expressed any intention to abandon the application and provided the applicant's representative with instructions to respond to the Office notice.

It is believed that the above is a sufficient showing of due care and diligence and of how the delay in discovering the abandoned status of the application occurred in spite of such exercise of due care and diligence.

Application Number 09/913,317  
Art Unit: 3643  
August 26, 2004

Respectfully submitted,



Guido MODIANO (Reg. No. 19,928)  
Agent for the Applicant

Date: August 26, 2004  
Address: Via Meravigli 16, 20123 MILAN-ITALY  
Telephone: (from USA) (011)(39)(02)8590-7777  
Telefax: (from USA)(011)(39)(02)863-860

Application Number 09/913,317  
Art Unit: 3643  
August 26, 2004

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

**PAYMENT OF THE PETITION FEE**

The undersigned Agent herewith authorizes the Commissioner of Patents and Trademarks to charge the deposit account number 13-3860 of applicant's agent of record, in the amount of US\$ 650.00 to cover the cost of the Petition for Revival, hereby submitted.

Any deficiency, including extension fee, if any, or overpayment should be charged or credited to the above numbered deposit account.

Respectfully submitted,



Guido MODIANO (Reg. No. 19,928)  
Agent for the Applicant

Date: August 26, 2004  
Address: Via Meravigli 16, 20123 MILAN-ITALY  
Telephone: (from USA) (011)(39)(02)8590-7777  
Telefax: (from USA)(011)(39)(02)863-860



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1459  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/913,317	08/10/2001	Maximiliano Zenti	35106/GM/1p	8491

7590 02/06/2004  
Modiano & Associati  
Via Meravigli, 16  
Milan, 20123  
ITALY

EXAMINER

PARSLEY, DAVID J

ART UNIT

PAPER NUMBER

3643

DATE MAILED: 02/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

MP (26.5.04)  
res. eff.

ANNEX 1

**Visualizzazione Scadenza:**

Gruppo Scadenza	Pratica	Tipo Pratica	Tipo Scadenza
B Pros Est	35106		Rossa

Titolare	No Fatt. Technology
ZEMTI	No Fatt. Continental

Oggetto	HR
r.es. EFF.	Office Action REFLECTIVE

Paese
US - Stati Uniti

Sigla - Nominativo #1	Sigla - Nominativo #2	Sigla - Nominativo #3
-----------------------	-----------------------	-----------------------

Data Scadenza	Stato	Data Esecuzione
26/05/2004	Attiva	

Note	DEADLINE
	26/05/2004 (May 26, 2004)

ANNEX 1A





Visualizzazione Scadenza:

Gruppo Scadenze B Pros Est	Pratica 35106	Tipo Pratica Rossa	Tipo Scadenza Rossa
-------------------------------	------------------	-----------------------	------------------------

↓

Titolare ZENTI	No Fatt. Technology No Fatt. Continental
-------------------	---

↓

RE  
Office Action 3rd Month/Ultimate

↓

Paese US - Stati Uniti	Sigla - Nominativo #1 MEL - Luca Melley	Sigla - Nominativo #2	Sigla - Nominativo #3
---------------------------	--	-----------------------	-----------------------

↓

Data Scadenza 26/08/2004	Stato Attiva	Data Esecuzione
-----------------------------	-----------------	-----------------

↓

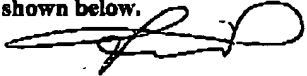
Note  
+ PAREREI

↓

DEADLINE  
26/08/2004 (August 26, 2004)

ANNEX 2

August 25, 2004  
USSN. 09/913,317  
Examiner: PARSLEY, DAVID J  
Group A.U.: 3643

**OFFICIAL**  
I hereby certify that this paper including 7 pages is being facsimile transmitted to the Patent and Trademark Office (fax no. 001.703.308-6916) on the date shown below.  
Milan,  
August 26, 2004  
  
Guido MODIANO (Reg. No. 19,928)

Docket No. 35106/MEL/rf

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : ZENTI Maximiliano  
Ser. No. : 09/913,317  
Filed : August 10, 2001  
For : SOD COMPRISING AGRICULTURAL COMPONENTS...  
Group A.U. : 3643  
Examiner : PARSLEY, DAVID J

Assistant Commissioner for Patents  
Mail Stop Petition + Amendment  
Washington D. C. 20231  
U. S. A.

Sir,

**AMENDMENT**

In response to the Office Action dated February 6, 2004, please amend the application as follows:

August 26, 2004  
USSN. 09/913,317  
Examiner: PARSLEY, DAVID J  
Group A.U.: 3643

~~lawn~~, comprising, also in a different time sequence, the following operating steps:  
preparing a seeding bed and introducing seeds therein;  
dividing the seeding bed into sods;  
cohesion treatment, whereby the resulting sod is not brittle, makes it possible to maintain a geometric shape and allows proper handling until a laying step is completed;  
laying the sod and  
moistening the sod before or after laying and regular watering after laying afterwards, a nondestructive drying step being also performed on the sod, wherein said cohesion treatment including the sod being mixed with a bonding agent in a chamber.

63. (Currently amended) The method according to claim 62, wherein, after drying, the sod is packaged in a suitable package for its preservation, storage and transport, ~~preferably~~ under vacuum.

64. (Currently amended) The method according to claim 62, wherein said preparation of a seeding bed comprises dosage of said seeds and ~~said~~ a layer of said bonding agent glue and the mixing thereof.

65. (Previously added) The method according to claim 62, wherein said preparation of a seeding bed is obtained by depositing successive layers of various components.

66. (Previously added) The method according to claim 62, wherein said division into sods occurs by molding a mix in a template, die or by extrusion in the chosen sod shape.

67. (Previously added) The method according to claim 62, wherein said division into sods occurs by die-cutting.

68. (Previously added) The method according to claim 62, wherein said seed insertion occurs by implantation with a seeding machine.

69. (Previously added) The method according to claim 62, wherein said introduction of seeds occurs by depositing a layer of seeds.

70. (Previously added) The method according to claim 62, wherein said drying is nondestructive and reduces the percentage of humidity in the seeding bed to the

August 26, 2004  
USSN: 09/913,317  
Examiner: PARSLEY, DAVID J  
Group A.U.: 3643

point at which seed germination is no longer possible and tends to preserve the possibility of rapid future revival of microorganisms activity without degrading the natural and chemical organic substances present in the seeding bed.

71. (Previously added) The method according to claim 70, wherein said drying is performed by exposure in a ventilated greenhouse.

72. (Previously added) The method according to claim 70, wherein said drying is provided by means of low-temperature heat sources and by air change.

73. (Previously added) A sod for cultivating plants, obtained with the method according to claim 62, comprising a seeded seeding bed including a fertilizer and wrapped or at least held together by a suitable organic bonding agent so as to maintain its shape.

74. (Previously added) The sod according to claim 73, wherein said bonding agent is biodegradable.

75. (Previously added) The sod according to claim 74, wherein said bonding agent comprises at least one colloidal substance.

76. (Previously added) The sod according to claim 75, wherein said bonding agent comprises glue of vegetable or animal origin.

77. (Previously added) The sod according to claim 76, wherein said seeding bed comprises soil which includes mineral substances and at least one organic substance.

78. (Previously added) The sod according to claim 77, wherein said organic substance comprises one or more fertilizers.

79. (Previously added) The sod according to claim 78, comprising at least one selective herbicide which hinders the germination and growth of plants which are different from, and antagonists of, those whose growth is sought.

80. (Previously added) The sod according to claim 79, having a geometric shape which makes it possible to cover continuously the surface to be revegetated.

81. (Currently amended) A method of preparing a plant cultivation, ~~particularly a lawn~~, comprising the steps of:

preparing a seeding bed;

dividing the seeding bed into sods, by pressing the seeding bed;

introducing seeds in the sods after the sods have been defined by pressing the

August 26, 2004  
USSN. 09/913,317  
Examiner: PARSLEY, DAVID J  
Group A.U.: 3643

seeding bed;

laying the sod and

moistening the sod before or after laying and regular watering after laying afterwards.

82. (Previously added) The method according to claim 81, further comprising a step of depositing a layer of adhesive agent on a surface of said sods where seeds have been introduced.

83. (Previously added) The method according to claim 81, wherein said step of preparing the seeding bed comprises the step of mixing the sods with an adhesive agent.

August 25, 2004  
USSN. 09/913,317  
Examiner: PARSLEY, DAVID J  
Group A.U.: 3643

**Remarks**

The applicant, in addition to requesting reconsideration of all of the claims 43-80, still draws the Examiner's attention to new claims 81-83 which were filed with the filing of the continuation in part and wherein independent claim 81 discloses a different embodiment of the method according to the present invention. Such claims 81-83 had not been apparently considered by the Examiner in the last Office Action.

Such different embodiment has the peculiar feature that the seeding bed is first of all prepared and then is pressed so as to obtain sods and only at this time the seeds are inserted in the sods.

This solves the problem of having to press a seeding bed that already contains the seeds, with the drawback that the seeds are also subjected to the pressing action, with the consequence that the seeds may change their position inside the sod or even fall outside the sod.

The new independent claim 81 is believed to be both new and unobvious also over the newly cited prior art document (Rack).

As to pending claims 43 and 62, as well as 44 and 63-64, the applicant has amended them in order to overcome the Examiner's rejections under 35 U.S.C. 112.

Claim 43, as currently amended, is believed to be inventive over the combination of Gaughen and Rack since Rack does not disclose laying an adhesive layer on the outer surface of the sod.

In fact, Rack discloses (see column 3, lines 34-51) preparing a substrate wherein a bonding agent is used to keep the particulate material together, i.e. to build the substrate.

The seeds are not provided inside the substrate and the bonding agent has the only

August 25, 2004  
USSN. 09/913,317  
Examiner: PARSLEY, DAVID J  
Group A.U.: 3643

purpose of keeping the substrate (without seeds) compact.

When seeds are desired, they can be placed on the surface of the substrate (thus not in the substrate, but only on the surface thereof) and a retaining layer is used to keep them on the surface of the substrate.

Thus, two distinct bonding agents have to be used: one for keeping the substrate together, and one to keep the seeds on the surface thereof.

On the contrary, in the applicant's invention, only one adhesive agent is employed to keep the sod together, with the sod that contains the seeds.

Still further, as illustrated in figure 5, the layer S, which is the layer that is used when pieces of sod are desired, is a layer of synthetic foam or other porous material and is arranged on the surface of the sod that comes in contact with the soil, and not on the entire outer surface of the soil, as claimed in the applicant's claimed invention.

In both cases, Rack does not teach to use a layer of adhesive, arranged on the entire outer surface of the sod, wherein seeds are present inside the sod.

Thus, it is believed that claim 43 should be considered unobvious over the prior art.

As to the term "cohesion treatment", it is to be observed that such term refers to the treatment made by applying the adhesive layer and such treatment has the effect of making the sod "not brittle".

Thus, it is believed that such term is clearly defined in claims 43 and 62, since when the type of cohesion treatment is defined also the effect thereof becomes clear.

In any case, the applicant, if the Examiner wishes, can without any problem cancel the wording "whereby the resulting sod is not brittle".

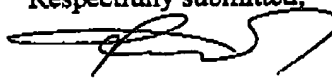
August 25, 2004  
USSN. 09/913,317  
Examiner: PARSLEY, DAVID J  
Group A.U.: 3643

The application should now be in an allowable condition and allowance thereof is respectfully requested.

It will be noted that a sincere effort has been made to positively respond to all of the points raised by the Examiner.

While it is believed that the amended claims properly define the present invention, applicant would be open to any suggestion the Examiner may have concerning different claim phraseology which, in the Examiner's opinion, more accurately defines the present invention.

Respectfully submitted,



Guido MODIANO

(Reg. No. 19,928)

Agent for the Applicant

Via Meravigli 16

20123 MILAN-ITALY

Tel. +39.02.8590-7777

Milan: August 26, 2004